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NEIL F. HARTIGAN  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD  
62706

LPC-1630450038  
- ST. CLAIR County  
Wastex Research, Inc.  
ILD 980760744  
Compliance File

June 23, 1988

A. Marvin Helart, Clerk  
United States District Court  
Southern District of Illinois  
750 Missouri Avenue  
P. O. Box 249  
East St. Louis, IL 62202

Re: U.S. & People of the State of Illinois v.  
Wastex Research, Inc., No. 84-3299

Dear Mr. Helart:

Enclosed please find an original and two copies of a Petition for Order to Show Cause and proposed Order to Show Cause in the above-referenced matter. Please file and return one copy to me with your "filed" stamp affixed thereto in the enclosed envelope.

Thank you for your cooperation.

Sincerely,

*James L. Morgan*  
James L. Morgan  
Assistant Attorney General  
Environmental Control Division

JLM:rsr  
Enclosures  
cc: Bruce Carlson

RECEIVED

JUN 28 1988

IEPA-DLPC

RECEIVED  
ENFORCEMENT PROGRAMS

JUN 24 1988

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
and	)	
	)	
PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Plaintiff-Intervenor,	)	
	)	
v.	)	Civil Action No. 84-3299
	)	
WASTEX RESEARCH, INC.,	)	
	)	
Defendant.	)	

NOTICE OF FILING

TO: Thomas J. Immel  
Attorney at Law  
1118 S. Sixth Street  
Springfield, IL 62703

James Markle  
Registered Agent  
Wastex Research, Inc.  
2000 Broadway  
E. St. Louis, IL 62205

Bruce Reppert  
Assistant U.S. Attorney  
Southern Dist. of Illinois  
750 Missouri Avenue  
East St. Louis, IL 62202

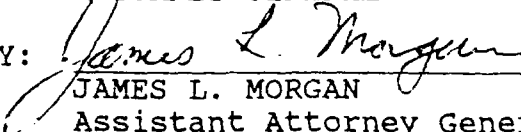
PLEASE TAKE NOTICE that we have today mailed for filing  
the attached Petition for Order to Show Cause and proposed Order  
to Show Cause, a copy of which is served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

NEIL F. HARTIGAN  
ATTORNEY GENERAL

BY:

  
JAMES L. MORGAN  
Assistant Attorney General  
Environmental Control Division

500 South Second Street  
Springfield, IL 62706  
(217) 782-9031

DATED: June 23, 1988

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
and	)	
	)	
PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Plaintiff-Intervenor,	)	
	)	
v.	)	Civil Action No. 84-3299
	)	
WASTEX RESEARCH, INC.,	)	
	)	
Defendant.	)	

PETITION FOR ORDER TO SHOW CAUSE

Now comes Plaintiff-Intervenor, People of the State of Illinois (hereafter "the State"), by Neil F. Hartigan, Attorney General of the State of Illinois, and petitions this court to issue an order requiring defendant Wastex Research, Inc. (hereafter "Wastex") to show why it should not be adjudged guilty of, and punished for, civil contempt for failing to comply with the terms of a Consent Decree entered in the above-styled cause.

1. On July 31, 1987, this court approved and entered a Consent Decree in this cause. That Consent Decree required Wastex to undertake certain actions.

2. As will be more fully described below, Wastex has failed to comply with certain requirements of the Consent Decree.

3. Paragraph B.2 of the Consent Decree required that:

"[t]he Chase Inventory shall be disposed of in such quantities so as to achieve final disposal of all such materials in accordance with Section B by a date 450 days from entry of this Decree. Further, at 90 day intervals from the entry of this Decree, one-fifth of these materials shall have been disposed of in accordance with Section B."

As of April 20, 1988, Wastex has failed to dispose of three-fifths of the Chase Inventory as required by this provision. Furthermore, any quantity of the Chase Inventory disposed of by Wastex is minimal at best. Wastex has proposed a modification of the disposal method for these materials pursuant to paragraph B.2, but the applications submitted for a permit to conduct this activity have failed to demonstrate that violations of the Illinois Environmental Protection Act would not occur if the permit was granted.

4. Paragraph C.2 of the Consent Decree provides that:

"For those 90 day periods during which Wastex has not disposed of one-fifth of the Chase Inventory in accordance with Section B of this Decree the sum of \$5,000 shall be paid to the Plaintiffs [United States of America and the State] in the sum of \$2,500 each as a penalty."

Wastex has failed to make these penalty payments as required.

5. Paragraph A.19 of the Consent Decree provided that:

"Wastex shall provide financial assurance for closure which shall meet the applicable requirements of 40 CFR 264.143 and 35 Ill. Adm. Code 725.243 or 724.243. Each annual payment shall be made on May 17 of each year \* \* \*. The annual payment which was due on May 17, 1986, of \$8,917.27, was not made by Wastex. That annual payment shall be made by Wastex by a date no later than 90 days from the date this Decree is entered. The annual payment which is due on May 17, 1987, totals \$9,366.20. This payment shall be made no later than 30 days after the due date."

Wastex has failed to make either the 1986, 1987 or the 1988 annual payment.

6. Paragraph A.20 of the Consent Decree required that:

"Wastex shall, within 120 days of entry of this Decree, demonstrate financial responsibility for sudden accidental

occurrences meeting the requirements of 40 CFR 265.147 and 35 Ill. Adm. Code 725.247."

As of January 28, 1988, Wastex has failed to make this demonstration.

7. Paragraph A.4(a) of the Consent Decree required that:

"Each and every container at the Wastex facility in which any material is stored shall be closed with a tight-fitting metal cover (for open-head drums). Each metal cover shall have a complete tightly fitted gasket which is suitable to retain the waste. Each metal cover shall be held securely in place with a bolted steel ring, using a proper sized bolt. All drum bungs shall be closed with correctly sized threaded plugs. \*\*\* "

Wastex has stored drums containing materials at the facility which either did not have a tight-fitting metal cover or which cover was not held securely in place. Wastex has also stored drums with bungs which were not closed with plugs.

8. Paragraph A.4(c) of the Consent Decree required that:

"Any container which is leaking or is in a condition which prevents the installation of a tight fitting metal cover or threaded plugs shall be enclosed in a US DOT approved overpack. Such overpacked containers shall be stored, transported, and disposed of in said overpacks."

Wastex has failed to overpack leaking drums as required under this provision. By failing to do so, Wastex has also violated 35 Ill. Adm. Code 725.271.

9. Paragraph A.4(b) of the Consent Decree required that:

"No drums or other containers of waste shall be allowed to remain open except as necessary to add or remove waste."

Wastex has allowed drums containing waste at the site to remain open for extended periods of time not necessary to add or remove

wastes. By doing so Wastex has also violated 35 Ill. Adm. Code 725.273(a).

10. Paragraph A.4(e) of the Consent Decree required Wastex to

"rearrange all the containers currently stored  
\* \* \* so that: (1) containers are stacked no  
more than 2-high and 2-wide. (2) an aisle  
space shall be provided at least 48 inches  
wide between every other row of containers and  
between any row of containers and any wall.  
\* \* \* "

Wastex has failed to rearrange 339 drums located in buildings 3 and 22 as required above. By failing to do so, Wastex has also violated 35 Ill. Adm. Code 725.135.

11. Paragraph A.5 of the Consent Decree required that:

"Within 60 days of entry of this Decree Wastex shall provide to U.S. EPA and IEPA a detailed written inventory of all materials, including wastes stored at the facility."

Wastex did not submit this inventory to IEPA until December 11, 1987. Some of the drums at the facility corresponding to drums listing as having been assigned a number in the written inventory have not been physically marked with that number.

12. Paragraph A.5 also provides that:

" \* \* \*

g. \*\*\* Each container or tank whose contents are sampled for analysis shall be clearly marked with the date and sample number."

Wastex has failed to mark each container sampled for analysis with the date and sample number.

13. Paragraph A.7(a) of the Consent Decree required that:

"Wastex shall conduct a detailed chemical and physical analysis of a representative sample of all wastes prior to acceptance of such waste for treatment, storage, or disposal as

required by 40 C.F.R. 265.13(a) and 35 Ill.  
Adm. Code 725.113(a) \* \* \*."

Wastex has frequently accepted wastes at the site prior to conducting and/or completing the detailed chemical and physical analysis required by this paragraph.

14. Paragraph A.21 of the Consent Decree required that:

"Wastex shall remove from the facility and properly dispose of all wastes within 180 days of receipt, except as provided in Section B."

Wastex has failed to remove wastes from the facility within 180 days of receipt.

15. The attached affidavits of Patrick McCarthy, Andrew Vollmer, and Mary Jo Heise establish the violations of the Consent Decree as described above.

Wherefore, Plaintiff-Intervenor requests that this court:

1. Issue an order to the defendant to show cause why it should not be held in contempt of court;
2. After hearing on such order to show cause find defendant to have violated the Consent Decree in each respect alleged in this petition and to hold defendant in contempt for those violations;
3. Impose upon defendant such monetary penalty or other requirements as the court deems necessary for the defendant to purge itself of the contempt;
4. Assess the costs of this proceeding against defendant;  
and

5. Enter such other and further order as this court deems proper.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

NEIL F. HARTIGAN  
ATTORNEY GENERAL

BY:

James L. Morgan  
James L. Morgan  
Assistant Attorney General  
Environmental Control Division

500 South Second Street  
Springfield, IL 62706;  
217/782-9031  
Dated: June 23, 1988



STATE OF ILLINOIS     )  
                              )  
COUNTY OF MADISON    )

A F F I D A V I T

I, Patrick M. McCarthy, upon my oath, do hereby depose and state as follows:

1. I am employed by the Illinois Environmental Protection Agency ("the Agency"), as an inspector with the Land Pollution Control Division, Collinsville Regional Office.

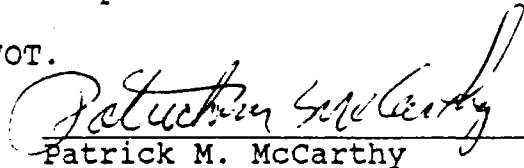
2. In the course of my duties I have inspected the Wastex Research, Inc. facility, located at 2000 Broadway in East St. Louis on September 24, 1987, April 7, 1988, and April 20, 1988. This facility is the subject of the Consent Decree entered in the case of United States of America v. Wastex Research, Inc., No. 84-3299.

3. During the course of my inspections I have observed that:

- a. As of April 20, 1988, Wastex has not disposed of three-fifths of the Chase Inventory. I have not observed any noticeable reduction in the amount of material contained in the Chase Inventory from its pre-Consent Decree levels;
- b. Wastex has stored materials at the site which did not have a metal cover, which had a metal cover which was not held securely in place or which did not have bungs that were in place;
- c. Wastex has not overpacked leaking drums;

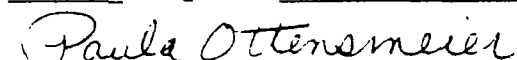
- d. Wastex has allowed drums containing waste at the site to remain open for extended periods of time not necessary to add or remove wastes;
- e. As of April 20, 1988, Wastex has not rearranged 339 drums stored in buildings 3 and 22 so that they are not stacked more than 2-high and 2-wide and so that there is at least 48 inches of aisle space between every other row of drums;
- f. Wastex did not submit its inventory of materials stored at the facility to the Agency until December 11, 1987. As of April 7, 1988, there were drums corresponding to drums listed in the inventory as having been assigned an identifying number which were not physically marked with that number;
- g. Wastex has failed to mark each container sampled for analysis with the date and sample number;
- h. Wastex has frequently accepted wastes at the site prior to conducting and/or completing the detailed chemical and physical analysis required by paragraph A.7(a) of the Consent Decree; and
- i. Wastex has failed to remove wastes from the facility within 180 days of receipt.

FURTHER AFFIANT SAYETH NOT.

  
Patrick M. McCarthy

Subscribed and sworn to before me this

10th day of June, 1988.

  
Notary Public

